

**TIVERTON PLANNING BOARD
MINUTES OF SPECIAL MEETING
February 20, 2007**

Chair Rosemary Eva called the special meeting of the Tiverton Planning Board to order at 7:05 P.M at the Tiverton Town Hall, 343 Highland Road. Members present were: Ms. Sylvester, Mr. McCollough, Mr. Corr, Mr. Raposa and Mr. Berg, Board member and Administrative Officer. Town Planner Christopher Spencer and Building / Zoning Officer Gareth Eames were also in attendance. The Chair announced that there would be no public input accepted at this meeting due to the large agenda.

1. Tiverton Planning Board

A. Proposed Zoning Amendment(s) & Comp Plan – Status The Chair noted that this item should not have been included on the agenda, however their status was unchanged.

B. Zoning Amendments to Correct Inconsistencies with the Comprehensive Community Plan Update The Chair noted that all items would be discussed and agreed to by consensus with votes taken at the next meeting to be held March 6, 2007. The items were also taken out of order. She also noted that items the zoning ordinance amendment items - 2.c., 2.d. and 2.e. (below) had been added to the agenda at Mr. Eames' request and then took his items out of order as not to detain him.

1. Zoning Map Amendments

a. W to GC, W/S Main Road, & E/S Old Main Road The Board discussed the area consisting of the Bigos, Khera and Little Bear parcels between Old Main Road and Main Road and agreed by unanimous consensus to recommend changing the zoning of this area, with the exception of the Starwood property, from a Waterfront to General Commercial Zone, to be more compatible with existing uses.

b. HC to R-40/R-60, S/S Souza Road The discussion centered on the south side of Souza Road, excluding the existing Viti Mercedes parcel (Block 92, Card 9A). Mr. Berg noted that the R-40 Zone bounded the Highway Commercial land to the west and south. He opined that a change to R-40 would allow for more flexibility for potential residential developers, especially for rural residential development. Mr. Spencer agreed that R-40 seemed appropriate and that after visiting the area Highway Commercial (HC) seemed inappropriate. The Chair noted that property lines should be followed, and that Lot 14A (Brito) had been split in error (HC and R-40) in the previous mapping. Mr. Berg noted that this change would be consistent with the Comprehensive Community Plan (both the original and the updated version). He noted that the "Future Land Use" map within the Plans depicted this area as "medium density residential". The Board agreed by unanimous consensus to recommend a change from HC to R-40 for Block 92, Card 9 (McInnis / Tiverton Associates Trust) and the HC portion of Block 92, Card 14A (Brito).

Mr. Berg noted that the Board should reevaluate the HC Zone in the future. Mr. Corr added that a historic district should be considered for the area of Main Road just north of Route 24, since the area had been federally recognized (Osborne/Bennett District). Mr. Berg cautioned that the Comprehensive Plan and the obligations to homeowner's would need to be reviewed and that the idea of historical zoning had been roundly defeated in the past.

c. R-40 to GC, W/S Main Road & S/S Carey Lane The parcel discussed was owned by Philip Godek and currently contains a fire extinguisher business and is nonconforming. A discussion ensued regarding the past uses of the parcel. The Chair noted that Carey Lane had previously been selected as a line of demarcation between the commercial and residential zones. She opined that by changing it to a commercial status by right could start a "creep" effect. By leaving it as it is would allow notification to the residential abutters of any change of use. Mr. Spencer opined that this parcel should be allowed to remain non-conforming; at least until commercial design guidelines were in place. The Board agreed by unanimous consensus not to recommend a change and leave the zoning of this parcel as R-40.

d. Update OS Zone, Town-wide Maps and spreadsheets were distributed detailing parcels purchased for open space to be added to the Town's Open Space Zone, which totaled approximately 561 acres. The Chair thanked Mrs. Michaud for the excellent job she had done in so little time in preparing the maps and spreadsheets and suggested that mapping consultant Mary Hutchinson should be used for creating more formal maps to be used for

advertising when the time came. The Chair also suggested that the list be reviewed in more detail for accuracy. Ms. Sylvester agreed to review the list for accuracy.

2. Zoning Ordinance Amendments

a. Article II (104, etc.) – Definitions The Board reviewed planning consultant Jane Weidman's memo, dated February 19, 2007 (See file) regarding suggested changes to the definitions pertaining to shopping centers and the like. Mr. Berg noted that Ms. Weidman was suggesting a definition change only, with no changes to the Use Tables in Article IV. He recommended changing the use table as well. He also noted that the ITE (Institute of Traffic Engineering) definitions had been forwarded by Deirdre Paiva of Commonwealth Engineers, which had been distributed to the Board. The ITE language was incorporated in Mr. Berg's draft language.

A discussion ensued regarding size limits for retail / office / service complexes, with Mr. McCollough noting that he liked the 40,000 square foot limit proposed by Ms. Weidman. Mr. Berg agreed, noting that, for example, Grand Central's building contained 21,000 square feet. If the Board agreed with the suggested changes, shopping centers (<40,000 square feet) would not be permitted.

Mr. Spencer expressed his concern that neighboring 40,000 square foot complexes could lead to duplicate parking. A lengthy discussion ensued regarding parking areas and requirements. Mr. Spencer noted the need for commercial design standards. It was agreed that the asterisk on the use table now regarding parking areas (60,000 square foot limit) would be removed and replaced by language within the definition (104a.).

The Board by unanimous consensus agreed with the proposed changes to Article II – Definitions and associated changes to Article IV – Use Table. Mr. Berg agreed to rewrite the draft in accordance with the discussion, and distribute prior to the next meeting.

b. Article V – District Dimensional Regulations – Cont'd Planning consultant Jane Weidman's January 8, 2007 draft was reviewed and read aloud by the Chair. Mr. Berg opined that the proposed language was too restrictive. Mr. Spencer stated that it would require very large lots and would pretty much prohibit multi-family developments. Mr. Berg added that the language could also force subdivisions, instead of development of a single lot. Mr. Spencer also noted that the Board should look at the number of stories allowed, instead of a specific height limit.

The Chair suggested that a subcommittee could sit with Ms. Weidman to discuss this draft. Mr. Spencer stated that he would meet with Ms. Weidman. Mr. McCollough suggested that Board members could send their comments to Mr. Spencer.

c. Article IV, Section 2.d. – Mixed Use Residential Mr. Eames stated that "Mixed Use Residential" development was allowed in the General Commercial Zone, but was currently not permitted in the Highway Commercial Zone. He suggested that the use should be permitted in both zones. The Chair asked if this change would comply with the Comprehensive Community Plan ("Comp Plan"). Mr. Eames did not know. *The Chair* stated that she was personally not in favor of allowing more housing in a Highway Commercial Zone.

Mr. Raposa asked if there was non-conforming mixed-use development currently within the Highway Commercial Zone. Mr. Berg noted that there was some non-conforming mixed-use in the Stafford Road / Wm. Canning Blvd. area. He stated that he was not personally opposed to the change, and found it to be consistent with what exists. The Chair suggested that a Special Use Permit could allow the use rather than a Permitted Use, in order to force a public hearing with abutter notification and a safety review.

Mr. Eames stated that this issue came to light with a recent application to the Zoning Board to put an apartment over a business on Stafford Road and noted that there was not much difference between the Highway Commercial and General Commercial Zones. Mr. Berg noted that the Comprehensive Plan suggested reviewing the Highway Commercial Zone in general, which would be done at a later date.

The Board agreed unanimously by consensus to recommend a change from “N” (Not Permitted) to “S” (Special Use Permit) for “Mixed Use Residential” development within the Highway Commercial Zone on the Use Table for Article IV Section 2.d. Mr. Spencer also agreed that this would be a good short-range fix.

d. Article VI, Section 8.b. – Unaccepted Streets Mr. Eames stated that he had met with Director of Public Works David Webster to draft language changes to this section. Mr. Eames suggested that the street along the entire physical frontage of an undeveloped lot must be improved to town standards prior to issuance of a building permit. He noted that the current ordinance only refers to frontage, which could be construed as the legal frontage of only 120’. He also stated that 5’ shoulders on each side of a 20’ road should be provided for a total width of 30’. Another addition would require that the lot owner provide easements.

Mr. Berg noted that this section was originally drafted at the direction of the Town Council and would open up tiny lots for development. Mr. Eames stated that the accesses must be made passable for fire apparatus, etc. Mr. Spencer asked if these improved, unaccepted streets were intended for future acceptance. Mr. Berg stated they were not intended to be accepted and noted that the Planning Board reviews all plans for street improvements and makes recommendations to the permitting authority (Mr. Eames).

By unanimous consensus the Board *agreed* with the recommended changes from Mr. Eames and *also* Sections 8.b., 8.f. and “Standards for Unaccepted Streets” (1-5) which the Chair noted needed clarification and wordsmithing to facilitate better understanding by the Zoning Board.

e. Article XVIII – Section 1.c. – Zoning Officer Mr. Eames requested that the cost of a Zoning Certificate be changed from \$300 to a cost to be set by the Tiverton Town Council. He stated that he has never written a Certificate, and that he currently writes “buildable lot letters” for free. He noted that he would suggest a \$50 fee to the Town Council, which would be set by resolution to the fee schedule. The Board agreed unanimously by consensus to recommend a change in the fee for Zoning Certificates from \$300 to an amount to be set by resolution by the Town Council.

After all items had been discussed, Mr. Raposa made a motion to have Mr. Berg draft the amended language based on the Board’s discussion and consensus for a formal vote at the March 6, 2007 meeting. Mr. McCollough seconded the motion. The motion passed unanimously. Ms. Eva, Ms. Sylvester, Mr. McCollough, Mr. Corr, Mr. Raposa and Mr. Berg voted in favor.

C. Town Planner & Planning Consultant’s Items There was no discussion of this item.

1. Miscellaneous

D. Correspondence There was no discussion of this item.

E. Miscellaneous There was no discussion of this item.

F. Approval of Minutes: February 6, 2007, February 13, 2007 There was no discussion of this item, since these minutes were not yet available.

G. Closed Executive Session with Legal Counsel –

1. Pending Litigation per RIGL 42-46-5(a)(2) - a. NED v. Tiverton and b. McInnis v. Tiverton There was no discussion of this item.

H. Adjournment: Mr. Berg made a motion to adjourn. Mr. Raposa seconded the motion. The motion passed unanimously. Ms. Eva, Ms. Sylvester, Mr. Corr, Mr. McCollough, Mr. Raposa and Mr. Berg voted in favor.

The meeting adjourned at 9:35 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____
Kate Michaud

Approval Date: March 6, 2007